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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

ROBERT PASTOR,
Plaintiff,
v.
BLUESTEM BRANDS, INC. d/b/a
FINGERHUT,
Defendant.

) Case No.:
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) JURY TRIAL DEMANDED
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COMPLAINT

ROBERT PASTOR (“Plaintiff”), by and through his attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against BLUESTEM BRANDS, INC. d/b/a FINGERHUT (“DEFENDANT”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227.

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the State of Ohio, thus, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Canton, Ohio 44706.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation with its principal place of business located at 6509 Flying Cloud Drive, Eden Prairie, Minnesota 55344.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that he has had for over two years.

11. Plaintiff has only used this number as a cellular telephone number.

12. Beginning sometime during 2014, Defendant began to contact Plaintiff on his cellular phone three (3) to four (4) times per day, on average.

13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system.

14. Plaintiff received automated calls that would begin with a noticeable delay before one of Defendant’s representatives would speak to him.

15. Defendant’s telephone calls were not made for “emergency purposes;” rather, Defendant was attempting to collect an account balance.

16. Plaintiff spoke with Defendant in December 2014 and revoked any consent that Defendant may have had to contact him.

17. In response to Plaintiff’s request to stop the calls, Defendant demanded payment for the account.

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8 20. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at
9 length herein.

12 22. Defendant's calls to Plaintiff were not made for emergency purposes.
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24. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

22 26. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
23 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles
24 damages.

- 3 -
PLAINTIFF'S COMPLAINT

1 judgment as follows:

- 2 a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- 3 b. Statutory damages of \$500.00 per violative telephone call pursuant to 47
- 4 U.S.C. § 227(b)(3)(B);
- 5 c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47
- 6 U.S.C. §227(b)(3);
- 7 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- 8 e. Any other relief deemed appropriate by this Honorable Court.
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11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiff, ROBERT PASTOR, demands a jury trial in this

13 case.

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15 Respectfully submitted,

16 DATED: April 5, 2016

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